

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 21-003-14-1-5-00085-16  
**Petitioners:** Robert T. & Deborah Jones  
**Respondent:** Fayette County Assessor  
**Parcel:** 21-05-26-103-625.000-003  
**Assessment Year:** 2014

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioners initiated their 2014 assessment appeal with the Fayette County Assessor on September 5, 2014.
2. On December 28, 2015, the Fayette County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners any relief.
3. The Petitioners timely filed a Petition for Review of Assessment (Form 131) with the Board. They elected the Board's small claims procedures.
4. The Board issued a notice of hearing on May 2, 2016.
5. Administrative Law Judge (ALJ) Patti Kindler held the Board's administrative hearing on June 9, 2016. She did not inspect the property.
6. Robert and Deborah Jones appeared *pro se*. County Assessor Kathleen L. Rhodes appeared for the Respondent. All of them were sworn.

**Facts**

7. The property under appeal is a single-family residence located at 1221 Ranch Road in Connersville.
8. The PTABOA determined the total assessment is \$158,200 (land \$21,900 and improvements \$136,300).
9. On their Form 131, the Petitioners requested a total assessment of \$145,400 (land \$21,900 and improvements \$123,500).

## Record

10. The official record for this matter is made up of the following:

- a) Form 131 with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioners Exhibit 1A:	Sales disclosure for 1112 Ranch Road,
Petitioners Exhibit 2A:	Sales disclosure for 905 Ranch Road,
Petitioners Exhibit 3A:	Sales disclosures and property record card for 914 Ranch Road,
Petitioners Exhibit 4A:	Sales disclosure and property record card for 908 Ranch Road,
Petitioners Exhibit 5A:	Sales disclosure and property record card for 912 Shawnee Place,
Petitioners Exhibit 6A:	Online property data for 212 Ranch Court, with property record cards and plat map,
Petitioners Exhibit 7A:	Property record card for 210 South Gray Road with online transfer data and assessment data,
Petitioners Exhibit 1B:	Sales disclosure for 1113 West 3 <sup>rd</sup> Street,
Petitioners Exhibit 2B:	Sales disclosure for 1103 West 3 <sup>rd</sup> Street,
Petitioners Exhibit 3B:	Sales disclosure for 900 Ranch Road,
Petitioners Exhibit 4B:	Sales disclosure for 302 South Gray Road,
Petitioners Exhibit 5B:	Sales disclosure for 1005 West 3 <sup>rd</sup> Street,
Petitioners Exhibit 6B:	Sales disclosure for 915 West 3 <sup>rd</sup> Street,
Petitioners Exhibit 7B:	Sales disclosure for 924 Shawnee Place.
Respondent Exhibit 1:	“Explanation of fireplace pricing and brick increments,”
Respondent Exhibit 2:	Appendix C, page 7, from the 2011 REAL PROPERTY ASSESSMENT GUIDELINES,
Respondent Exhibit 3:	Chapter 3, page 26, from the 2011 REAL PROPERTY ASSESSMENT GUIDELINES,
Respondent Exhibit 4:	Photograph of the subject property,
Respondent Exhibit 5:	2012 subject property record card,
Respondent Exhibit 6:	List of sales utilized in the 2013 and 2014 ratio studies,
Respondent Exhibit 7:	2013 subject property record card,
Respondent Exhibit 8:	2014 subject property record card,
Respondent Exhibit 9:	Property record card for 908 Shawnee Place,
Respondent Exhibit 10:	Property record card for 1217 Ranch Road,
Respondent Exhibit 11:	Property record card for 310 South Gray Road,
Respondent Exhibit 12:	Property record card for 404 South Gray Road,
Respondent Exhibit 13:	Property record card for 912 Shawnee Place,
Respondent Exhibit 14:	Property record card for 212 Ranch Court,

Respondent Exhibit 15: Property record card for 1112 Ranch Road,  
Respondent Exhibit 16: Property record card for 905 Ranch Road.

Board Exhibit A: Form 131 with attachments,  
Board Exhibit B: Notice of hearing,  
Board Exhibit C: Hearing sign-in sheet.

d) These Findings and Conclusions.

### Contentions

11. Summary of the Petitioners' case:

- a) The subject property's 2014 assessment is too high. The "location multiplier" utilized by the Respondent is too high for Fayette County. As a result, the assessment increased from \$145,400 in 2013 to \$158,200 in 2014. However, in 2015 the assessment "went right back down." *R. Jones argument (referencing Resp't Ex. 8)*.
- b) According to 2012 sales, the increase in the property's assessment is excessive. Sales disclosures indicate that "sales were less than assessed values, thus the neighborhood factor should have decreased rather than increased by 6%." *R. Jones testimony; Pet'rs Ex. 1A, 2A, 3A, 4A, 5A, 6A, 7A, 1B, 2B, 3B, 4B, 5B, 6B, 7B*.
- c) For example, the property located at 212 Ranch Court was purchased with an additional 0.826 acre-parcel. As such, the Petitioners argue the "big increase wasn't just on that home's assessed value."<sup>1</sup> *R. Jones argument; Pet'rs Ex. 6A*.

12. Summary of the Respondent's case:

- a) The subject property is correctly assessed. The 2014 assessment increased due to a recent ratio study. As a result of the ratio study, the neighborhood factor and the "location cost multiplier" were increased. This increase "affected every property in the Petitioners' neighborhood." *Rhodes argument; Resp't Ex. 5, 6, 7, 8*.
- b) Four sales from 2013 were utilized in the 2014 ratio study. The sales indicate an overall increase in the 2014 neighborhood factor from 92% in 2013 to 98% in 2014. Additionally, the "location cost multiplier" rose from 83% in 2013 to 87% in 2014. *Rhodes testimony; Resp't Ex. 6, 13, 14, 15, 16*.
- c) A further inspection of the sales utilized in the ratio study proves the subject property is correctly assessed. First, the property located at 912 Shawnee Place sold for

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<sup>1</sup> It is not entirely clear what the Petitioners intended to argue in regard to the property located at 212 Ranch Court. This property sold for \$225,000 on May 7, 2013, while the 2014 total assessment was only \$204,800. As the Board has previously stated, it is not the Board's duty to make a case for the Petitioners. *Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board...through every element of the analysis").

- \$136,500 on May 3, 2013. This property was assessed for \$116,500 in 2013. This resulted in an assessment-to-sale ratio of 0.85. Accordingly, the 2014 assessment increased to \$126,500. *Rhodes argument; Resp't Ex. 6, 13.*
- d) The property located at 212 Ranch Court sold for \$225,000 on May 7, 2013. This property was assessed for \$185,300 in 2013. As such, the assessment-to-sale ratio equated to 0.82. Thus, the 2014 assessment increased to \$204,800. *Rhodes testimony; Resp't Ex. 6, 14.*
  - e) Next, the property located at 1112 Ranch Road sold for \$90,000 on October 16, 2013. The 2013 assessment was \$103,300, resulting in an assessment-to-sale ratio of 1.15. The 2014 assessment increased to \$113,200. *Rhodes testimony; Resp't Ex. 6, 15.*
  - f) Finally, the property located at 905 Ranch Road sold for \$76,500 on November 13, 2013. The 2013 assessment was \$82,600. This resulted in an assessment-to-sale ratio of 1.08. The 2014 assessment increased to \$89,500. *Rhodes testimony; Resp't Ex. 6, 16.*
  - g) Granted, the Petitioners did not raise any arguments regarding the assessment of their fireplace or exterior brick, but the Respondent clarified how they were assessed. First, only one fireplace was assessed, but it was assessed “in two parts” in accordance with the Guidelines. As for the brick, it is assessed in “increments” and the Petitioners’ home was assessed as having “two increments on the front that extend from the foundation to the roofline.” *Rhodes testimony; Resp't Ex. 1, 2, 3, 4, 8.*

### **Burden of Proof**

- 13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as recently amended by P.L. 97-2014 creates two exceptions to that rule.
- 14. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
- 15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased

above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the parties agree that the assessment increased by more than 5% from 2013 to 2014. In fact, the total assessed value increased from \$145,400 to \$158,200. Thus, according to the burden shifting provisions of Ind. Code § 6-1.1-15-17.2, the Respondent has the burden to prove the 2014 assessment is correct.

### **Analysis**

17. The Respondent failed to make a prima face case that the 2014 assessment is correct.
  - a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
  - b) Regardless of the method used, a party must explain how the evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2014 assessment, the valuation date was March 1, 2014. *See* Ind. Code § 6-1.1-4-4.5(f).
  - c) Here, the Respondent attempted to prove the subject property was correctly assessed by explaining the increase in the location cost multiplier used to compute the assessment and by pointing to the 2014 ratio study. The Board will first examine the Respondent's evidence in regard to the 2014 ratio study.
  - d) The Respondent argued the increase in the assessment was due, in part, to trending resulting from the 2014 ratio study. Further, she identified four properties utilized in the ratio study. However, she failed to offer any support for the notion that a ratio study may be used to prove that an individual property's assessment reflects its market value-in-use. Indeed, the INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS STANDARD ON RATIO STUDIES, which 50 IAC 27-1-44 incorporates by reference, says otherwise:

Assessors, appeal boards, taxpayers, and taxing authorities can use ratio studies to evaluate the fairness of funding distributions, the merits of class action claims, or the degree of

discrimination. . . . **However, the ratio study statistics cannot be used to judge the level of appraisal of an *individual parcel*.** Such statistics can be used to adjust assessed values on appealed properties to a common level.

INTERNATIONAL ASSOCIATION OF ASSESSING OFFICIALS  
STANDARD ON RATIO STUDIES, VERSION 17.03 Part 2.3  
(Approved by IAAO Executive Board 7/21/2007)(bold added,  
italics in original).

- e) Here, the Respondent's burden is not merely to explain why the assessment increased. Instead, the Respondent must offer probative evidence proving the subject property's market value-in-use. *See* Ind. Code § 6-1.1-15-17.2.
- f) For this reason, the testimony regarding an increase in the location cost multiplier also lacks probative value. While it may help explain the methodology of computing the assessment, and even help explain why the assessment increased, it does nothing to prove the actual correct market value-in-use.<sup>2</sup>
- g) Because the Respondent pointed to the sales of four properties utilized in the ratio study, it could be inferred that she attempted to rely on a sales-comparison approach to establish the market value-in-use of the property. *See*, 2011 Real PROPERTY ASSESSMENT MANUAL at 9 (incorporated by reference at 50 IAC2.4-1-2)(stating that the sales-comparison approach relies on "sales of comparable improved properties and adjusts the selling prices to reflect the subject property's total value."); *see also*, *Long*, 821 N.E.2d 466, 469.
- h) However, for sales data to be probative, the properties must be sufficiently comparable to the property under appeal. Conclusory statements that a property is "similar" or "comparable" to another property do not show comparability. *See Long*, 821 N.E.2d 466, 470. Instead, one must identify the characteristics of the property under appeal and explain both how those characteristics compare to the characteristics of the sold properties and how any relevant differences affect the properties' relative market values-in-use. *Id.* at 471.
- i) The properties presented by the Respondent are located in the same neighborhood as the subject property, given they were included in the ratio study. Beyond that, the Respondent failed to offer any evidence that the properties she selected were comparable to the subject property. Additionally, she made no attempt to account for any differences between the properties used in the ratio study and the subject property. Therefore, her listing of sales lacks probative value.

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<sup>2</sup> Additionally, the Respondent's testimony regarding the methodology for assessing the brick and fireplace does nothing to prove the property's market value-in-use.

- j) Because the Respondent did not offer enough probative evidence to show the market value-in-use, she failed to make a prima facie case the 2014 assessment is correct. Therefore, the Petitioners are entitled to have their assessment returned to its 2013 level of \$145,400. This ends the Boards inquiry because the Petitioners only requested the assessment be reduced to its 2013 level.

### **Conclusion**

18. The Respondent had the burden of proving the 2014 assessment was correct, but failed to make a prima facie case. The assessment must be reduced to the previous year's amount.

### **Final Determination**

In accordance with these findings and conclusions, the 2014 assessment must be changed to \$145,400.

ISSUED: September 6, 2016

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### **- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.